

*cc: Shain***ORIGINAL**

ENVER W. PAINTER, JR. 2525
 Attorney at Law
 1188 Bishop Street, Suite 2505
 Honolulu, Hawaii 96813
 Telephone: (808) 537-9777

FILED IN THE
 UNITED STATES DISTRICT COURT
 DISTRICT OF HAWAII

Attorney for Plaintiff and
 Counterclaim/Defendant
 Carol J. Nelson

I JUL 17 2007 AJ
at 3 o'clock and 00 min M
SUE BETIA, CLERK

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

CAROL J. NELSON,)	CV 01-00182 KSC
)	
Plaintiff,)	
vs.)	
)	
ROBERT ALAN JONES)	
)	
Defendant.)	
)	
ROBERT ALAN JONES)	PLAINTIFF'S WITNESS LIST
)	and CERTIFICATE OF SERVICE
Counterclaimant,)	
vs.)	
)	
CAROL NELSON)	
)	
Counterclaim)	
Defendant.)	

PLAINTIFF'S WITNESS LIST

Plaintiff, CAROL J. NELSON (Nelson) by and through her undersigned attorney, hereby submit this Witness List pursuant to the Court's Forth Amended Rule 16 Scheduling Order filed on January 5, 2007.

1. Carol J. Nelson
c/o Enver W. Painter, Jr.
Attorney at Law
1188 Bishop Street, Suite 2505
Honolulu, HI 96813

Ms. Nelson will testify as to all facts at issue herein including the following.

Conversations regarding obtaining a license to operate Bad Ass Coffee Company (BACC) stores in the State of Montana, negotiations regarding the use and possible sale of her Kona Plaza condominium in Kailua-Kona (Condo) to BACC USA and/or Mr. Bilanzich, the Letter of Intent re same, conditions precedent to any proposed sale, the subsequent assignment of any interest in the Condo by Bilanzich to Jones and conversations between the parties relating thereto, the subsequent failure of conditions precedent to any proposed sale, including cancellation of the License Agreement, failure to supply merchandise and allow credits for coffee purchases and the breach and/or failure of Bilanzich and subsequently Jones to make the monthly payments required for the use of the Condo.

Nelson will testify that any future sale of the Condo was contingent upon the rights to operate 5 BACC stores in the State of Montana for a period of 10 years, the receipt of \$20,000 in credits towards the purchase of BACC coffee and merchandise, the negotiation and execution of a DROA or other contract for the purchase and sale of the Condo, a

promissory note for the balance of the purchase price, a mortgage to secure the payment of same and the negotiation and agreement as to when the balance of the purchase price was to be paid. Ms. Nelson will also testify as to BACC USA and Mike Bilanzich's refusal to sell coffee and other products for resale in the BACC store in Montana, the subsequent rejection of the License Agreement by the Trustee in the Royal Aloha Coffee Tea and Spice Bankruptcy Case, the subsequent termination of the License Agreement by Mike Bilanzich and BACC Hawaii's suit to enjoin licensee from using the BACC trade name

Ms. Nelson will also testify as to Jones occupancy of the Condo and his and/or his entities payment of the monthly expenses for that use. Nelson as the owner of the Condo will testify as to her understanding of the condition of the Condo and the value of same. Nelson will also testify as to the fair market rental value of the Condo at all relevant times herein.

It is anticipated that Carol Nelson's direct examination will take approximately 2 ½ hours.

2. Michael Cetraro
c/o Enver W. Painter, Jr.
Attorney at Law
1188 Bishop Street, Suite 2505
Honolulu, HI 96813

Mr. Cetraro will testify as to all facts at issue herein including the following.

His discussions with Dennis Lovell regarding obtaining a license for BACC stores in Montana, the understanding of the parties regarding BACC USA and or Mike Bilanzich's desire to use the Condo and the discussions regarding the possible sale of the Condo to BACC USA and/or Mr. Bilanzich, conditions precedent to any proposed sale to BACC USA

and/or Mike Bilanzich, his drafting of a Letter of Intent to evidence the parties understanding of the proposed transaction, the assignment of any interest in the condo by Bilanzich to Jones and conversations he had with Jones relating thereto, the failure, breach and/or default regarding the conditions precedent and consideration anticipated in exchange for the Condo. Mike Cetraro will also testify regarding the Royal Aloha Coffee Tea and Spice Bankruptcy case, the Bankruptcy Trustee's rejection of the License Agreement and suit against Cetraro and Nelson, his conversations with Mike Bilanzich regarding conversion of the License Agreement to a franchise arrangement, the suit filed by BACC Hawaii to enjoin licensees from using the BACC trade name and to enjoin Cetraro and Nelson from selling BACC logo coffee and/or other products.

Mr. Cetraro will testify that any future sale of the Condo was contingent upon the rights to operate 5 BACC stores in the State of Montana for a period of 10 years, the receipt of \$20,000 in credits towards the purchase of BACC logo coffee and merchandise, the execution of a promissory note for the balance of the purchase price, a mortgage to secure the payment of same and the negotiation and agreement as to when the balance of the purchase price was to be paid.

Mr. Cetraro will also testify as to BACC USA and Mike Bilanzich's refusal to sell coffee and other products for resale in the BACC store in Montana, the determination by the Department of Commerce and Consumer Affairs for the State of Hawaii that the License Agreement was an illegal franchise arrangement, the subsequent rejection of the License

Agreement by the Trustee in the Royal Aloha Bankruptcy Case, the subsequent termination of the License Agreement by Mike Bilanzich and BACC Hawaii's suit to enjoin licensees, including he and Nelson, from using the BACC trade name and the suit filed against BACC Hawaii, Mike Bilanzich and other for the sale of counterfeit coffee to BACC licensees.

Cetraro, as a member of the AAO for the Kona Plaza condominium, an owner of a neighboring unit in the Kona Plaza condominium and a person having knowledge of the condition of the subject Condo, will testify as to his understanding of the condition of the Condo and the value of same. Cetraro will also testify as to the fair market rental value of the Condo at all relevant times herein.

It is anticipated that Mr. Cetraro's direct examination will take approximately 2 1/2 hours.

3. Charles M. Heaukulani, Esq.
Brooks Tom Porter & Quitiquit
75-1000 Henry Street, Suite 208
Kailua-Kona, HI 96740

Mr. Heaukulani was Nelson's former counsel who filed the instant Compliant for Summary Possession in the State District Court in Kailua-Kona, which Jones subsequently removed to this Court. Mr. Heaukulani will testify as to the filing of this action and his communication with Jones regarding the Condo, both prior to and subsequent to the filing of the Complaint for Summary Possession.

It is anticipated that Mr. Heaukulani's direct examination will take approximately 15 minutes.

4. John Eddins III
c/o Enver W. Painter, Jr.
Attorney at Law
1188 Bishop Street, Suite 2505
Honolulu, HI 96813

Mr. Eddins will testify as to his dealing with BACC USA as a Licensee, the determination by the Department of Commerce and Consumer Affairs for the State of Hawaii that the License Agreement was an illegal franchise arrangement, the facts and circumstances surrounding the lawsuits brought by BACC Hawaii to enjoin licensees, including himself, Nelson and Cetraro from using the BACC trade name and/or the sale of BACC logo coffee or other products, the suit filed against BACC Hawaii and other for the sale of counterfeit coffee to BACC licensees, the Royal Aloha Coffee Tea and Spice Bankruptcy Case, the rejection of the License Agreement by the Bankruptcy Trustee and the conversion of license agreements to franchise agreements.

It is anticipated that Mr. Eddins' direct examination will last for approximately 45 minutes.

5. Dennis Lovell
c/o Enver W. Painter, Jr.
Attorney at Law
1188 Bishop Street, Suite 2505
Honolulu, HI 96813

Dennis Lovell was the individual who original proposed that Mike Cetraro open BACC stores in Montana and who purportedly negotiated on behalf of BACC USA and/or Mike Bilanzich for the use and possible future sale of the Condo to BACC USA and/or Mike Bilanzich. Mr Lovell will testify that any future sale of the Condo was contingent upon

Cetraro receiving the rights to operate BACC stores in the State of Montana and the receipt of \$20,000 in credits towards the purchase of BACC coffee and merchandise from BACC USA. Mr. Lovell will also testify as to his knowledge of BACC USA and/or Mike Bilanzich subsequent termination of the License Agreement, refusal to sell coffee and other products to Mr. Cetraro for resale in his BACC store in Montana, the subsequent rejection of the License Agreement by the Trustee in the Royal Aloha Bankruptcy Case, BACC Hawaii's suit to enjoin licensee from using the BACC trade name and his conversations with Alan Jones re the breach of any agreement for the use and/or purchase of the Condo.

It is anticipated that Mr. Lovell's direct examination will last approximately ½ hour.

6. Dean Soma Esq.
State of Hawaii
Dept of Commerce and Consumer Affairs
250 S. Kng Street
Honolulu, HI 96813

Mr. Soma is an attorney with the DCCA who prosecuted the BACC entities and/or Bilanzich's for the issuance of the License Agreement entered into by Nelson, Cetraro, Eddins and others in the State of Hawaii as illegal offering of franchises for sale in the State of Hawaii and will testify as to that matter and the subsequent stipulation whereby the entities offering franchises (License Agreement) for sale agreed to cease and desist from doing so until they complied with the requirements of the Hawaii Franchise Investment Act.

It is anticipated that Mr. Soma's direct examination will take approximately ½ hour.

Nelson reserves the right to elicit expert opinion testimony from any of the non-expert witnesses listed above or hereafter designated by the parties to the extent that such witnesses are qualified by reason of their education, training and/or experience to render opinions regarding the issues in this case.

Nelson reserves the right to call rebuttal witnesses as necessary.

Nelson reserves the right to call any witnesses listed on Jones's pretrial statement, final naming of witnesses or any other witness lists by Nelson and/or Jones as though fully named herein.

Nelson reserves the right to call any witnesses to authenticate exhibits.

All witnesses designated through incorporation by reference in this Pretrial Statement shall remain designated as adverse witnesses whether they may be subsequently withdrawn by any other party.

Nelson reserves the right to amend her witness list any time prior to trial, or as otherwise agreed by the parties, to delete witnesses, or to designate additional witnesses as necessary. Nelson further reserves the right to call rebuttal witnesses as necessary.

DATED: Honolulu, Hawaii, July 17, 2007.



ENVER W. PAINTER, JR.
Attorney for Plaintiff/Counterclaim Defendant
CAROL J. NELSON

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

CAROL J. NELSON,)	Civil No. 01-00182
)	HG-LEK-KSSC
Plaintiff,)	
vs.)	
ROBERT ALAN JONES)	
)	
Defendant.)	
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ROBERT ALAN JONES)	
)	
Counterclaimant,)	
vs.)	
CAROL NELSON)	
)	
Counterclaim)	
Defendant.)	
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CERTIFICATE OF SERVICE

I hereby certify that on below date a true and correct copy of the Foregoing Plaintiff's Witness List was duly served upon the following individuals by hand delivery at the following address:

ROBERT E. CHAPMAN
MARY MARTIN
700 Bishop Street, Suite 2100
Honolulu, Hawaii 96813

DATED: Honolulu, Hawaii, July 17, 2007



ENVER W. PAINTER, JR.
Attorney for Plaintiff/Counterclaim Defendant
CAROL J. NELSON